

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

In the Matter of:

RONALD V. STALLINGS

FAA Order No. 97-17

Served: May 23, 1997

Docket No. CP96WP0083

ORDER DISMISSING APPEAL

In FAA Order No. 97-7, Respondent Ronald Stallings was ordered to file a brief addressing certain issues no later than March 20, 1997, or his notice of appeal would be dismissed and an order assessing civil penalty would be issued.¹ In the Matter of Ronald Stallings, FAA Order No. 97-7, 1997 FAA LEXIS 144, at *1 and *15 (February 20, 1997).² Regardless, contrary to the explicit instructions in FAA Order No. 97-7, Mr. Stallings has not filed a brief. Consequently, as warned,

¹ In a nutshell, the history of this case is as follows. Judge Kolko issued an Order Assessing Civil Penalty on July 23, 1997, after finding that Mr. Stallings had constructively withdrawn his request for hearing. The law judge based his finding of a constructive withdrawal upon Mr. Stallings' failure to file an Answer and the return of the Order to Show Cause issued by the law judge marked "undeliverable and unforwardable." Mr. Stallings subsequently filed a Notice of Appeal, but it was filed late. In FAA Order No. 97-7, the Administrator directed that Mr. Stallings file a brief explaining why his notice of appeal was late-filed, and whether the law judge had erred by finding that the request for hearing had been constructively withdrawn.

² Oddly, the certified mail envelope was returned to the Administrator's staff. However, the envelope was empty, and the certified "green card" receipt had been removed. The Administrator's staff separately received the green card, indicating that the certified package had been delivered on March 7, 1997. It appears that the envelope was returned to inform the sender of Mr. Stallings' current address.

Mr. Stallings' notice of appeal is dismissed. A \$500 civil penalty is assessed.³



BARRY L. VALENTINE
Acting Administrator
Federal Aviation Administration

Issued this 22 day of May, 1997.

³ Complainant sought a \$2,000 civil penalty in the Complaint, and the law judge assessed a \$2,000 civil penalty when he found Mr. Stallings to be in default. Ordinarily, in a case such as this one, the Administrator will assess the same civil penalty as the law judge. However, in this particular case, because the Agency's sanction guidance for this type of violation changed just a few days after the issuance of the Complaint, the civil penalty is reduced to bring it into line with the current guidance. See FAA Order No. 97-7, 1997 FAA LEXIS 144, at *3, fn. 3.